S.B.Civil Misc. Appeal No336/92
The Ganganagar Sugar Mills Ltd.
vs.
The Commissioner Workmens' Compensation & ors.

Date of Order: 03.7.2006

HON'BLE MR. PRAKASH TATIA, J.

Mr. Vijay Kumar Agarwal for the appellant.
Mr. D.R. Loonkar for the respondent no.3.

This appeal is against the award dated 30.6.1992 passed by the learned Workmen Compensation Commissioner, Sri Ganganagar in Workmen Compensation Case No.22/85.

It appears from the facts of the case that respondent-claimant suffered injury on 24.4.1980 when he was working in employment and because of the said accident, he suffered disability of 30%. The claimant claimed that at the time of accident he was earning Rs.364/- per month and on the basis of said quantum calculated the compensation with reference to disablement he suffered and claimed Rs.6430/- from the employer. According to the claimant, employer-appellant referred the matter to the Insurance Company and the respondent Insurance Company paid only Rs.538.33 to the claimant. The claimant, therefore, claimed difference of claim amount from the appellant as well as from the respondent Insurance Company, amounting to Rs.5430/-. The learned Workmen Compensation Commissioner itself in the award dated

30.6.1992 held that the respondent claimant suffered injury during course of employment and the employer appellant itself persuaded the matter before the Insurance Company for payment of the compensation to the claimant and in fact the Insurance Company accepted its liability and paid Rs.538/- to the claimant and from these facts, it is proved that the appellant suffered injury during the course of employment and was found entitled for compensation by the employer and not only this but the respondent Insurance Company accepted its liability and paid the part of the compensation which according to the respondent Insurance Company was the amount for which the claimant was entitled. Despite all these facts, the Workmen Compensation Commissioner without holding that the Insurance Company is not liable to pay the balance amount of Rs.5892/-, observed that the non-applicant no.1 employer is liable to pay the amount of Rs.5892/- to the claimant. In the facts mentioned above, it is clear that the respondent Insurance Company paid the part compensation amount to the claimant which according to them was just and proper but when adjudication has been made under the Workmen Compensation Act, then the Insurance Company is liable to pay the amount as adjudicated by the Workmen Compensation Commissioner under the provisions of the Workmen Compensation Act, 1923. Therefore, the unilateral act of determination of compensation of Rs.538/- as just compensation for claimant is of no consequence. In view

of the above, the respondent Insurance Company cannot deny their liability to pay the compensation to the claimant.

In view of the above, this appeal is partly allowed and it is held that the respondent Insurance Company is liable to pay the amount of Rs.5792/- as awarded by the Workmen Compensation Commissioner by order dated 30.6.1992. In case the amount has been paid by the employer to the employee, the employer shall be entitled to recover the amount from the respondent-Insurance Company. No order as to costs.

(**PRAKASH TATIA),J.**

mlt.